REMARKS

This is a full and timely response to the outstanding non-final office action dated November 17, 2009. Through this response, claims 75, 83, 85, 92, and 93 have been amended. Reconsideration and allowance of the application and pending claims 75-79 and 82-99 are respectfully requested.

I.   **Claim Rejections - 35 U.S.C. § 103(a)**

A.   **Statement of the Rejection**

1.   Claims 75-81, 83, 84, 92, 93, and 95-99 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hoang* (U.S. Pat. No. 6,557,030) in view of *Kusaba et al.* ("*Kusaba*," U.S. Pat. No. 6,510,556), *Lett et al.* ("*Lett*," U.S. Patent No. 5,592,551), and *Hicks, III et al.* ("*Hicks*," U.S. Pat. Public. No. 20040261112).

2.   Claim 82 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, and further in view of *Okamoto et al.* ("*Okamoto*," U.S. Pat. No. 6,901,385).

3.   Claims 85-87 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, and further in view of *Ellis et al.* ("*Ellis*," U.S. Pat. Public. No. 20030188313).

4.   Claims 88-90 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, and further in view of *Hunter et al.* ("*Hunter*," U.S. Pat. Public. No. 20020056118).

5.   Claim 91 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, and *Hunter*, and further in view of *Philips* (U.S. Pat. Public. No. 20020069412) and *Tomita et al.* ("*Tomita*," U.S. Pat. No. 6,732,372).

6.   Claim 94 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Hunter* in view of *Tomita*.

Applicants respectfully traverse these rejections to the extent not rendered moot by amendment, and believe the claims to be allowable over the art of record.

B.   Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

(A)   Determining the scope and contents of the prior art;

(B)   Ascertaining the differences between the prior art and the claims in issue;

(C)   Resolving the level of ordinary skill in the pertinent art; and

(D)   Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

1.   Claims 75-81, 83, 84, 92, 93, and 95-99 – *Hoang, Kusaba, Lett* and *Hicks*

Independent Claim 75

Claim 75 recites (with emphasis added):

75.   A system comprising:
a digital home communication terminal (DHCT) configured to receive
media content from a remote location over a network, the DHCT
comprising:
        a hard disk drive;
        a memory having application software; and
        a processor configured with the application software to provide a
first graphics user interface (GUI) comprising download options for the
reception of purchasable and recordable media (PRM) content and a
second GUI comprising plural media content choices for which the
download options do and do not pertain, the PRM content comprising
content that is purchased one-time for indefinite use, the processor
further configured with the application software to request from the
remote location a download of a first PRM content to the hard disk drive,
the first PRM content selected by a user from the second GUI, the
download independent of a playback rate for the first PRM content, **the
first GUI comprising plural user-selectable download durations for
the first PRM content**.

Applicants respectfully submit that the amendments to claim 75 have rendered

the rejection moot. Further, Applicants respectfully submit that independent claim 75 is

allowable over *Hoang* in view of *Kusaba, Lett,* and *Hicks* for at least the reason that

Hoang in view of *Kusaba, Lett,* and *Hicks* fails to disclose, teach, or suggest at least the

above emphasized claim features.

Hoang "relates generally to data-on-demand systems" and in particular to "video-

on-demand systems." (see, e.g., col. 1, lines 8-10, Hoang). *Hoang* describes "limitations"

with the "standard client-server model" when a "service provider (e.g., a cable company)

attempts to "provide VOD services to a large number of clients" as follows (col. 1, line 34

– col. 2, line 4, *Hoang*):

One limitation of the standard client-server model is that the service
provider has to implement a mechanism to continuously listen and fulfill
every request from each client within the network; thus, the number of

clients who can receive service is dependent on the capacity of such a mechanism. One mechanism uses massively-parallel computers having large and fast disk arrays as local servers. However, even the fastest existing local server can only deliver video data streams to about 1000 to 2000 clients at one time. Thus, in order to service more clients, the number of local servers must increase. Increasing local servers requires more upper level servers to maintain control of the local servers. Another limitation of the standard client-server model is that each client requires its own bandwidth. Thus, the total required bandwidth is directly proportional to the number of subscribing clients. Cache memory within local servers has been used to improve bandwidth limitation but using cache memory does not solve the problem because cache memory is also limited. Presently, in order to make video-on-demand services more affordable for clients, existing service providers are increasing the ratio of clients per local server above the local server's capabilities. Typically, a local server, which is capable of providing service to 1000 clients, is actually committed to service 10,000 clients. This technique may work if most of the subscribing clients do not order videos at the same time. However, this technique is set up for failure because most clients are likely to want to view videos at the same time (i.e., evenings and weekends), thus, causing the local server to become overloaded.

Hoang does not describe any user involvement in the manner in which VOD programming is delivered to the user independent of playback rate, outside of the act of actually ordering the program. This is not surprising since the focus of *Hoang* is the partitioning and scheduling at a server side of VOD programming in a manner where "any combination of clients can at a random time independently select and begin playing any data file provided by the service provider." (see col. 2, lines 8-25 and col. 11, lines 15-17, *Hoang*). Importantly, *Hoang* appears to offer the flexibility, or freedom, to select a program at any time by any number of users, without concern of reservations made by other users. Further, by the sharing and manipulation of a "data file" and the context of the invention description in Hoang appears to be directed to true VOD, and not NVOD. Also, though a user interface is described in *Hoang* (col. 12, lines 28-45) that displays "data file information" such as programming selections and price, there is no teaching or suggestion that a user can dictate the download duration of the programming. *Hoang* appears to be primarily used for alleged support of the hardware features of claim 1.

Kusaba is related to "a video distributing apparatus for accepting a request of a viewer and automatically forming a distribution schedule of a video image." (see, e.g., col. 1, lines 6-8, *Kusaba*). It is noted that NVOD, not VOD, is the system of choice in *Kusaba*. Indeed, *Kusaba* alleges the following with regard to VOD and NVOD (see, e.g., col. 1, lines 43-52, *Kusaba*, emphasis added):

> However, <u>high costs are required for the VOD because a very high speed network is necessary</u>. <u>As a solution</u> which can be realized in terms of the costs, a service called a near-VOD (<u>NVOD) is considered</u>. According to the NVOD, the same title is repetitively broadcasted by a plurality of channels and start time is shifted little by little (for example, every 15 minutes) for each channel, thereby enabling a video image to be viewed at a relatively free time.
>
> As mentioned above, the <u>VOD is not practical at present because of high costs</u>.

Kusaba makes it clear that VOD is to be avoided, and that NVOD is <u>the</u> solution. *Kusaba* also points out some shortcomings about current NVOD systems, as set forth in col. 1, lines 52-61, reproduced below in part with emphasis added):

> The NVOD as a solving measure is still uneconomical since <u>one video title occupies a plurality of channels</u>. The viewer is <u>not free to select a desired title</u>. A method of <u>giving a right of the title option to the viewer has been disclosed</u> in, for example, JP-A-9-247643, JP-A-9-205636, or the like. Even those prior arts, however, have a drawback such that the <u>adaptability, smoothness, and response speed of services are inadequate because the *transmitting station side possesses the other right of choice and right of decision*</u>.

Applicants interpret the last boldface, italicized section reproduced above to mean that "adaptability, smoothness, and response speed" would be improved by providing the user more options (since prior art systems constrain those options) in selection of titles and delivery times. This interpretation is supported by col. 1, lines 64-67 of *Kusaba*, which provides as follows:

> It is an object of the invention to make it possible to realize a service such that a title which the viewer wants to see can be viewed at desired time

and in a desired channel without needing high costs similar to those of the VOD.

Figures 4C-4F of *Kusaba* provide "input picture planes" that show the channel on which a given title is available and at what times, and also whether a given channel and time slot has already been reserved (see, e.g., col. 4, line 39 – col. 5, line 58, *Kusaba*). *Kusaba* appears to be relied upon primarily for the alleged support of the rejection of the first and second GUI features

Lett relates to "providing an electronic program schedule to a user of a subscription television system, and allowing the user to select programs, including pay-per-view or video-on-demand programs, directly from the electronic program schedule." (see, e.g., col. 1, lines 25-30, *Lett*). *Lett* appears to address such problems as conventional systems which require the subscriber to "either mail a card or telephone the provider well in advance of the event and request that his terminal be authorized to view the event" (col. 1, lines 48-50, *Lett*). Another problem in conventional systems is the fact that users may unexpectedly decide to stay home on a given night and desire to order PPV (e.g., see col. 1, lines 54-56, *Lett*). *Lett* also discloses that Impulse PPV systems and phone authorization systems are complicated (see, e.g., col. 1, line 64-col. 2, line 20, *Lett*). *Lett* further describes electronic television schedules that enable automatic programming of a subscriber's VCR upon receipt of a user choice of programming, but that such systems consume a significant amount of memory (see, e.g., col. 2, lines 21-42, *Lett*). *Lett* also describes NVOD systems, and notes the need for trick mode features to be competitive (see, e.g., col. 2, lines 43-61, *Lett*). *Lett*'s solution to these problems can be summarized as follows (see col. 2, line 64-col. 3, line 19, *Lett*, emphasis added):

> In accordance with the invention, a television system is provided that includes an <u>electronic program guide</u> giving a schedule of programs available on the television system, including pay-per-view and video-on-demand programs. The <u>user may select programs for watching or recording directly from the electronic program guide</u>. The selected

programs may include pay-per-view and video-on-demand programs, which may be purchased directly from the guide. The programs may be purchased without entry of event codes or the like. Near video-on-demand features may be purchased for finite periods of time, and allow pause, rewind and fast-forward functions.

In another preferred embodiment of the invention, the program schedule information is obtained from a data provider specializing in providing that information, such as Insight Telecast, Inc. The headend then selects portions of that data for transmission to the subscribers. The headend can select portions to satisfy the needs of its subscribers taking into consideration other factors, such as terminal costs. The <u>headend may also reformat the data in such a way as to provide it in a more useful format to its subscribers or add additional information of special interest to its subscribers</u>.

The non-final Office action appears to primarily focus, for purposes of claim 1, on *Lett* for alleged support of the rejection of the user-selectable download features (now canceled) using Figure 13 of *Lett*, reproduced below:

FIG. 13

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                PAY-PER-VIEW

YOU CAN VIEW

TERMINATOR 2.  R

FOR ONE OF THE FOLLOWING PERIODS

ONCE            $1.99
1 DAY           $2.99
3 DAYS          $3.99
1 WEEK          $4.99

MOVE THE CURSOR TO HIGHLIGHT YOUR
CHOICE THEN PRESS SELECT
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FIG. 14

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                PAY-PER-VIEW

TO PURCHASE TERMINATOR 2. R
FOR A 1 DAY PERIOD - $2.99
SELECT A START TIME

1.  CURRENT SHOWING
    (BEGAN 3 MINUTES AGO)
2.  NEXT SHOWING
    (6:30 P.M.)
3.  FUTURE SHOWINGS

MOVE THE CURSOR TO HIGHLIGHT YOUR
CHOICE THEN PRESS SELECT
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Hicks is concerned with "systems and methods for multimedia on demand services," (e.g., see paragraph 0001, *Hicks*) and generally uses a gateway local to a set-top box or other entertainment device to facilitate "integrated services" (e.g., see paragraph 0003, *Hicks*) while reducing investment in additional enhanced entertainment devices to accommodate these integrated services (e.g., see paragraph 0005, *Hicks*). In particular, paragraph [0020] provides an adequate summary of *Hicks*:

> [0020] A digital residential entertainment system can include a BMG that has multiple tuner/demodulators which receive broadcast multimedia content and send the received multimedia content to the Ethernet switch of the BMG. For example, in an embodiment having multiple tuner/demodulators, each tuner/demodulator can be coupled to a respective switch port of the Ethernet switch. In another embodiment, the multiple tuner/demodulators have a shared communication link to a switch port of the Ethernet switch. Upon receiving multimedia content, the

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BMG can transmit the multimedia content through the Ethernet switch over the twisted pair data network to an information appliance (e.g., a thin-client digital set-top box, an audio system, a wireless MP3 player, or a wireless electronic device), store the multimedia content for future access, or transmit and store coincidentally (e.g., simultaneously). The BMG includes a mass storage device (e.g., a computer hard drive) that can store multimedia content from broadcast sources, an Intranet or the Internet.

Hicks is primarily used by the non-final Office Action for alleged support of the rejection of PRM purchase and playback-independent downloads.

In view of the brief summary of the references used in the rejection of claim 1, Applicants address the respective obviousness arguments allegedly supporting the rejection of claim 1. The non-final Office Action (page 8) alleges the following rationale for combining the *Hoag* and *Kusaba* references:

Therefore, it would have been obvious…to modify the system disclosed by Hoang to have the memory have an application software and to have the processor be configured with the application software to provide a first graphics user interface (GUI) comprising download options for the reception of media content and a second GUI comprising plural media content choices for which the download options do pertain, the processor further configured with the application software to request from the remote location a download of a first media content, the first media content selected by a user from the second GUI, as taught by Kusaba, in order to enhance the video on demand (VOD) system to make it more adaptable, smooth, and efficient thereby giving the user more control (See col. 1 lines 57-67).

As noted from the reproduced section immediately above, *Kusaba* describes in col. 1, lines 57-67 the need to make the NVOD systems more adaptable, smooth, and efficient. However, Applicants respectfully disagree. As described above, *Hoang* does not describe any user involvement in the manner in which VOD programming is delivered to the user independent of playback rate, outside of the act of actually ordering the program. In contrast, *Kusaba* is concerned with providing more user involvement in this regard, as users may select alternative times for delivery, joining other reservations, etc. Further, whereas *Kusaba* is concerned about reservation conflicts (e.g., see column 5 of *Kusaba*),

such conflicts do not appear to be a concern for *Hoang*. Related to the latter issue is the fact that *Kusaba* describes NVOD as a solution to the high costs of VOD, and hence apparently needs to address the conflicts issue, whereas *Hoang*'s focus on VOD appears to enable freedom from concern of such conflicts (e.g., see column 11, *Hoang*). Further, it is noted that *Kusaba*, with its choice of NVOD over VOD in view of cost issues, teaches against the VOD system, such as described in *Hoang*. Finally, the non-final Office Action alleges that *Hoang* is modified to incorporate the interface options of *Kusaba*. In view of the points made above, it is clear that a user of *Hoang*'s system may choose a title at any time without bothering with a user interface to discern scheduling conflicts. In other words, not only is adding such GUI features taught by *Kusaba* inefficient (in requiring something not needed), but it is a feature that undoubtedly will make the situation less smooth by requiring a user to navigate the GUI to reserve a program to avoid non-existent conflicts. Indeed, the user in *Hoang* may select a title at any time, so is not the type of system *Kusaba* appears to address with its "solution." Also, by modifying *Hoang* to incorporate a GUI such as shown in FIGs. 4C and 4D (*Kusaba*), it is suggesting a similar system at stake here. It is clear that these are different systems, and hence the modification requires a fundamental change in operation of *Hoang*. Such a change is contrary to Federal case law, which provides as follows:

> If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

For at least the reason that a *prima facie* case of obviousness has not been established in view of *Hoang* and *Kusaba*, Applicants respectfully request that the rejection be withdrawn.

The non-final Office Action (pages 8-9) alleges the following rationale for combining *Hoang*, *Kusaba*, and *Lett*:

Therefore, it would have been obvious…to modify the system disclosed by Hoang in view of Kusaba to have the second GUI include plural media content choices for which the download options do not pertain and have the first GUI include plural user-selectable download rates for the first PRM content, as taught by Lett, in order to provide one convenient location to view various content from different services (e.g., broadcast, PPV, and VOD) (See col. 2 lines 64-67).

Initially, it is noted that *Hoang* and *Kusaba* are not properly combinable, as set forth above. It is respectfully submitted that *Lett* does not remedy this deficiency. *Lett's* emphasis on simplifying the ordering of VOD and PPV and selection of price rates for a purchase (Figure 13) does not readily lead one having ordinary skill in the art to combine with *Hoang* and *Kusaba*. *Hoang* does describe a user interface for programming selections, among other displayed information, as explained above. However, outside of perhaps the selection among programming titles, there is simply no suggestion that the download duration or any other option that pertains to download mechanisms is a choice among many for the user to select. *Kusaba* does describe a higher fee when a reservation is not accepted during a certain time interval (e.g., see column 5, *Kusaba*), though does not describe that as a feature to be displayed, and certainly does not describe plural download durations as claimed. Col. 2, lines 64-67 of *Lett* provides as follows:

In accordance with the invention, a television system is provided that includes an electronic program guide giving a schedule of programs available on the television system, including pay-per-view and video-on-demand programs.

Applicants disagree with the allegation by the non-final Office Action. As explained above, there is little to disclose with regard to *Hoang* and user interfaces, not surprising given the focus. It is noted that Hoang teaches that non-DOD services are unaffected by the invention of *Hoang*, suggesting at least that other services are available and that it is business as usual. *Kusaba* likewise is short on enabling description as to how the NVOD content is actually ordered. There is simply no suggestion of the need for the teachings of

consolidated viewing of different services. For at least these additional reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established in view of *Hoang*, *Kusaba*, and *Lett*, and hence Applicants respectfully request that the rejection be withdrawn.

The non-final Office Action (page 9) alleges the following rationale for combining *Hoang*, *Kusaba*, and *Hicks*:

> Therefore, it would have been obvious...to modify the system disclosed by Hoang in view of Kusaba to download content to a hard disk drive and for the media to include PRM, the PRM content comprising content that is purchased one-time for indefinite use, and that the download is independent of a playback rate for the first PRM content, as taught by Hicks, in order to allow the user to have the option of building their own personal library of movies/music (See paragraph 0025).

Once again, as set forth above, the combination of *Hoang* and *Kusaba* is improper. Further, *Hicks* does not remedy this deficiency. *Hoang* does describe a local hard drive (e.g., see col. 5, line 49, Hoang) and the possibility to select a list of data files from categories (e.g., see col. 12, lines 43-44, *Hoang*), yet makes no suggestion of the need for archiving. *Kusaba* neither discloses nor suggests anything about archiving or the need thereof. Again, both of these references are focused on entirely different problems and solutions. Further, the needs of *Hicks* are different than the needs of *Hoang* and *Kusaba*. The BMG of *Hicks* is receiving content to be distributed to a variety of devices (e.g., see Figure 1 of *Hicks*) with a variety of different content, hence presenting more of a need for archiving than the systems of *Hoang* or *Kusaba*. For at least these additional reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established in view of *Hoang*, *Kusaba*, *Lett*, and *Hicks*, and hence Applicants respectfully request that the rejection be withdrawn.

Because independent claim 75 is allowable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, dependent claims 76-79, 83, 84, and 95-96 are allowable as a matter of law for

at least the reason that the dependent claims 76-79, 83, 84, and 95-96 contain all elements

of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Also, Applicants respectfully submit that one or more of the dependent claims are

allowable on separate grounds, even beyond the fact that the rejections are rendered moot

by amendment. For instance, with regard to claim 83, the non-final Office Action (page 10)

alleges the following:

> Regarding claim 83, wherein the first GUI further comprises a price window
> having a monetary value that varies depending on which of the selectable
> first (e.g. 3 days $3.99) or second options (e.g. 1 week $4.99) of the
> download option list is selected (See Lett Fig. 13).

Applicants respectfully disagree. Assuming *arguendo* the $3.99 field in Figure 13 of

Lett can be construed as the claimed **price window**, the 3.99 "price window" does not vary.

Indeed, there is a second "price window" associated with the 1 week field (having a value of

$4.99). Applicants have recited a "price window" in the specification, and clearly, a price

window is not the fully-displayed GUI as suggested by the non-final Office Action (page 3).

However, in the interest of advancing prosecution on the merits, Applicants Accordingly,

Applicants respectfully request that the rejection be withdrawn to claim 83 as amended and

the claim allowed.

As another example, the rejection to claim 84 (page 10) alleges disclosure of the

claimed "non-channel identifier indicator" in Figures 5 and 6 and 13 of *Lett* (i.e., "PPV").

Further, the non-final Office Action (pages 3-4) alleges in part the following:

> …Lett discloses having a non-channel identifier indicator in proximity to the
> title (see Lett Figs. 5 and 6; PPV indicates download options). The PPV
> serves as a non-channel identifier indicator because "PPV" indicates to the
> user that the media content associated with the download options can be
> downloaded (see Lett Figs. 5, 6, and 13). As defined in the claim rejection,
> channel identifiers are interpreted as channel numbers, e.g., 5 and 6.
> Therefore, PPV and WATL are non-channel identifiers indicators because
> they do not define a channel number.

Applicants respectfully disagree. PPV is associated with the channel (e.g., the PPV channel, not unlike the WATL channel located beneath it in Figure 6 of *Lett*), whereas the claim requires a "non-channel identifier" indicator. Applicants did not claim a non-channel "number" identifier, but rather, a ***non-channel identifier***. Clearly PPV and WATL identify a channel. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn to claim 84 and the claim allowed.

Independent Claim 92

Claim 92 recites (with emphasis added):

92.   A method, comprising:
providing a first graphics user interface (GUI) at a digital home communications terminal (DHCT), the first GUI comprising download options for the reception of purchasable and recordable media (PRM) content, ***the PRM content comprising content that is purchased one-time for indefinite use and downloadable at a playback-independent rate, the first GUI comprising plural user-selectable download durations for the PRM content***;
providing a second GUI at the DHCT, the second GUI comprising plural media content choices for which the download options do and do not pertain; and
requesting a download of a first PRM content from a remote location to a hard disk drive coupled to the DHCT at one of the plural user-selectable download durations, the first PRM content selected by a user from the second GUI.

Applicants respectfully submit that the amendments to claim 92 have rendered the rejection moot. Further, for similar reasons provided in association with claim 75, Applicants respectfully submit that independent claim 92 is allowable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks* for at least the reason that *Hoang* in view of *Kusaba*, *Lett*, and *Hicks* fails to disclose, teach, or suggest at least the above emphasized claim features. Accordingly, Applicants respectfully submit that claim 92 is allowable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, respectfully request withdrawal of the rejection and allowance of the claim.

Because independent claim 92 is allowable over *Hoang* in view of *Kusaba*, *Lett*, and *Hicks*, dependent claims 93 and 97-99 is allowable as a matter of law.

Also, Applicants respectfully submit that one or more of the dependent claims are allowable on separate grounds. For instance, with regard to claim 93, Applicants have amended claim 93 to further define the **price window** as a field within the first GUI, which is not shown in Figure 13 of *Lett*. For at least this reason, Applicants respectfully request that the rejection be withdrawn and the claim allowed.

2.   Claim 82- *Hoang, Kusaba, Lett, Hicks*, and *Okamoto*

The addition of *Okamoto* does not cure the deficiencies of *Hoang*, *Kusaba*, *Lett*, *Hicks* discussed above in connection with independent claims 75. Therefore, for at least the reason that claim 75 is allowable over *Hoang*, *Kusaba*, *Lett*, *Hicks*, and *Okamoto*, dependent claim 82 is allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claim 82 be withdrawn.

In addition, Applicants respectfully submit that the combination involving *Okamoto* is not obvious. In addition to having a completely different US classification (e.g., 705) than the other combined references, the focus on copyright and digital rights management (see page 1, *Okamoto*) is completely different than the focus of the other references in the proposed combination, and addresses a completely different need than the other references (e.g., para. 0009, obviating the need to download content from the Internet). Indeed, the alleged motivation to include download option lists would appear to be contrary to the example need suggested in *Okamoto*. The non-final Office Action alleges the following in rebuttal on page 4:

> However, Okamoto discloses a content distribution system similar to the other references that distributes content at varying levels and rates. Okamoto offers content to the user at varying levels and rates (e.g., trail purchases) also. Therefore, Okamoto is considered to be related to the other references.

Applicants respectfully disagree. The amendment to claim 75 replaces "rates" with *durations*, and clearly the other references do not teach this feature. There is also no plausible reason why one having ordinary skill in the art would combine *Okamoto* with the other references. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn and claim 82 allowed.

3.   <u>Claims 85-87 – *Hoang, Kusaba, Lett*, and *Hicks*, and *Ellis*</u>

The addition of *Ellis* does not cure the deficiencies of *Hoang, Kusaba, Lett*, and *Hicks* discussed above in connection with independent claims 75. Therefore, for at least the reason that claim 75 is allowable over *Hoang, Kusaba, Lett, Hicks*, and *Ellis*, dependent claims 85-87 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claims 85-87 be withdrawn.

Additionally, it is not obvious to combine *Ellis* with *Hoang, Kusaba, Lett*, and *Hicks*. *Ellis* (see, e.g., para. 224) uses an overnight courier for delivery of content, and hence download options for PRM content would fundamentally change the manner in which *Ellis* operates. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn for this additional reason.

4.   <u>Claims 88-90 – *Hoang, Kusaba, Lett, Hicks*, and *Hunter*</u>

The addition of *Hunter* does not cure the deficiencies of *Hoang, Kusaba, Lett*, and *Hicks* discussed above in connection with independent claims 75. Therefore, for at least the reason that claim 75 is allowable over *Hoang, Kusaba, Lett, Hicks*, and *Hunter*, dependent claims 88-90 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claims 88-90 be withdrawn.

In addition, the addition of *Hunter* to *Hoang, Kusaba, Lett*, and *Hicks* is not obvious. For instance, *Hunter* (see, e.g., para 0018) describes blanket transmission of pre-selected

content, which from a technical standpoint, may obviate the need for any subscriber-side presentation or selection of download content. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn and the claims allowed.

5.   Claim 91 – *Hoang, Kusaba, Lett,* and *Hicks, Hunter, Philips* and *Tomita*

The addition of *Hunter*, *Philips* and *Tomita* does not cure the deficiencies of *Hoang*, *Kusaba*, *Lett*, and *Hicks* discussed above in connection with independent claims 75. Therefore, for at least the reason that claim 75 is allowable over *Hoang*, *Kusaba*, *Lett*, *Hicks*, *Hunter*, *Philips* and *Tomita*, dependent claim 91 is allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of claim 91 be withdrawn.

In addition, the addition of *Hunter* to *Hoang*, *Kusaba*, *Lett*, *Hicks* and *Philips* is not obvious. For instance, *Hunter* (see, e.g., para 0018) describes blanket transmission of pre-selected content, which from a technical standpoint, may obviate the need for any subscriber-side presentation or selection of download content. For at least this additional reason, Applicants respectfully request that the rejection be withdrawn and the claims allowed.

6.   Claim 94 – *Hunter* and *Tomita*

Claim 94 recites (with emphasis added):

94.   A system, comprising:
a storage device comprising one of a digital video disk (DVD) or compact disk (CD);
a tuner configured to receive broadcast and on-demand media content;
a memory with application software; and
a processor configured with application software to provide a graphics user interface (GUI) that enables a user to archive broadcast and on-demand media content downloaded to one of the DVD or CD, the broadcast and on-demand media content archived based on metadata associated with the broadcast and on-demand media content, the GUI *further configured to enable the user to enter a term-search for media content stored on the DVD or CD*.

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Applicants respectfully submit that independent claim 94 is allowable over *Hunter* in view of *Tomita* for at least the reason that *Hunter* in view of *Tomita* fails to disclose, teach, or suggest at least the above emphasized claim features. The non-final Office Action replies (pages 5-6) in part as follows:

> Tomita discloses a content distribution system. Tomita discloses a GUI configured to enable the user enter[sic] a term-search for media content stored on a medium (See Fig. 18; user is allowed enter[sic] terms, e.g. movie and drama), wherein Hunter discloses various mediums (e.g. DVD or CD). Furthermore, the program search conditions screen is a screen that enables a user to set the search conditions. Once the conditions are set by the user, the user can then obtain a list of programs matching the conditions (See Tomita Fig. 18; col. 13 line 53 – col. 14 line 37). Therefore, the search is performed by a user.

Applicants respectfully disagree. Applicants have reproduced Figure 18 of *Tomita* below:

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FIG.18

Clearly there is no term-search, but rather, what appears to be pre-defined fields.

Referring to the citation from *Tomita* (e.g., col. 13, line 53 – col. 14, line 37), the following is

described:

FIG. 18 is an illustrative drawing showing an example of the search-condition setting screen. As shown in the FIG. 10, the search-condition setting screen includes a field for setting a time span for a search, a field for setting a time slot for a search, a field for setting a program category to be searched for, and a field for setting one or more television stations to be included in a search.

At a step ST14 following the step ST13, the broadcast-program-information supplying program 300 receives data of search conditions entered through the search-condition setting screen.

At a step ST15, the broadcast-program-information supplying program 300 extracts the television-program information from the program database 31 such that television programs of the extracted information satisfies the received search conditions, and edits the extracted information into a predetermined listing format to create a search-result screen.

At the step ST9 following the step ST15, the broadcast-program-information supplying program 300 sends the search-result screen to the personal computer 33, so that the monitor display 34 of the personal computer 33 displays the search-result screen which lists the television programs which the user wishes to watch.

At the step ST10, the broadcast-program-information supplying program 300 checks whether a return button on the search-result screen is clicked. If it is, the procedure goes to the step ST11. Otherwise, the procedure comes back to the step ST10 so as to wait until the return button is operated.

At the step ST11, the broadcast-program-information supplying program 300 sends the original screen of a listing of television programs to the personal computer 33, so that the monitor display 34 of the personal computer 33 displays the original listing of television programs.

In this manner, the user can obtain a listing of television programs which the user wishes to watch by operating the search button 54 and entering search conditions through the search-condition setting screen to search for the listing of television programs which satisfy the entered search conditions. FIG. 17 shows an example of such a listing of television programs.

At the step ST16, when it is found at the step ST12 that the button operated by the user is not the search button 54 and, thus, should be one of the shift buttons 50, the broadcast-program-information supplying

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program 300 extracts detailed information on a television program indicated by the selected one of the shift buttons 50 from the program database 31 to create a screen of a detailed program guide, and sends this screen of a detailed program guide to the personal computer 33. In response, the personal computer 33 displays the screen of a detailed program guide on the monitor display 34.

Again, there is nothing in this section used by the non-final Office Action to support a rejection of claim 94 that reveals a term-search as claimed. For instance, perhaps after entering a check mark in one of the category fields, a drop down or other predefined category field is displayed. The section from *Tomita* and Figure 18 simply fail to bear out what the non-final Office Action alleges, and in particular, fails to disclose, teach, or suggest at least the claimed features. For at least these reasons, Applicants respectfully request that the rejection be withdrawn and claim 94 allowed.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

Date: March 17, 2010

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